

**Comparison of the Electric Consumers' Power to  
Choose Act of 1999 (Largent/Markey) and the Comprehensive  
Electricity Competition Plan (Administration)**

<b>As of</b>		
<b>5/26/99</b>	<b>Representative Largent</b>	<b>Administration</b>
<p>Open Access Date</p> <p>A. Regulated Utilities (IOUs)</p>	<p>Flexible mandate. State regulated utilities must provide open access to their distribution facilities by 1/01/2002. A state may "opt out" if its regulatory authority finds, after notice and opportunity for hearing, that retail competition will have a negative impact upon a class of customers that cannot reasonably be mitigated. Such election shall be made by 1/01/2001.</p>	<p>Flexible mandate. State regulated utilities must provide open access to their distribution facilities by 1/01/2003. A state regulated utility may "opt out" of its state's regulatory authority finds, after notice and opportunity for hearing, that retail competition will have a negative impact upon a class of customers served by that utility that cannot reasonably be mitigated. Such election shall be made by 1/01/2001.</p>
<p>Open Access Date</p> <p>B. Non-regulated utilities (Municipal utilities and Co-ops)</p>	<p><b>Flexible mandate. Non-regulated distribution utilities must provide open access to their distribution facilities by 1/01/2002. A non-regulated distribution utility may "opt out" if it finds, after notice and opportunity for hearing, that retail competition will have a negative impact upon a class of customers of that utility that cannot reasonably be mitigated. Such election shall be made by 1/01/2001.</b></p>	<p><b>Flexible mandate. Non-regulated distribution utilities must provide open access to their distribution facilities by 1/01/2003. A non-regulated distribution utility may "opt out" of it finds, after notice and opportunity for hearing, that retail competition will have a negative impact upon a class of customers served by that cannot reasonably be mitigated. Such election shall be made by 1/01/2002.</b></p>

Failure to Elect	Any person may bring an action in the appropriate State court against a State regulatory authority or a distribution utility for failure to comply.	Same provision
Grandfathering	All states enacting legislation by 01/01/2001 providing open access of all state-regulated distribution facilities are grandfathered.	No provision
Private Use	Private use limitations not applicable to outstanding bonds for facilities used in connection with retail competition or open access transmission. No new tax exempt bonds for new generation or transmission. Tax exempt bonds still available for distribution facilities (69 kv or less) subject to private use limitations under current law.	Same provision
Stranded Costs	States and non-regulated utilities may impose a non-bypassable charge to recover stranded costs. States and non-regulated utilities determine the amount of stranded costs under applicable state law.	States and nonregulated utilities determine the amount of recoverable stranded costs. FERC given "backup" authority to establish stranded cost recovery if a state or nonregulated utility lacks authority. States must consider reducing stranded costs for an electric consumer producing energy on-site by a fuel cell or a combined heat and power, distributed power or renewable power facility.
Regional Transmission Organizations	Grants FERC authority to oversee creation of Regional Transmission Organizations (RTOs) and compel utilities to turn over control of their transmission facilities to such organization.	Grants FERC authority to oversee creation of Independent Regional System Operators (RSOs) and compel utilities to turn over control of their transmission facilities to such organization.
Regional Transmission Planning Organizations	Encourages regional agreements that facilitate coordination among States with regard to siting and planning of transmission, generation, and	Same provision

	<b>distribution facilities; Provides for FERC approval of such agreements.</b>	
<b>Renewable Mandate</b>	<b>Energy Information Agency to determine on 1/1/2005 the percentage of non-hydroelectric renewable resources (wind, solar, biomass or geothermal) used for electricity generation. If renewables constitute less than three (3) percent of generation, a renewable portfolio system (RPS) shall go into effect. Under the RPS, each seller of electricity shall be required to use, as a generation source, renewable resources equal to at least three (3) percent of total generation. The RPS sunsets in 2015. Those sellers unable to reach the requirements may purchase credits from other utilities, or, may purchase credits from the Department of Energy for 1.5 cents per kilowatt hour. Revenues from the sale of these credits will be used to fund grants in support of clean burning technology.</b>	<b>Creates renewable portfolio system mandating that sellers use, as a generation source, a percentage of non-hydro electric renewable technology such as wind, solar, biomass or geothermal generation. Initially the percentage would be equivalent to the percentage of renewable energy currently sold in the U.S. There would be an intermediate increase in 2005, followed by an increase to 7.55 percent in 2010. The RPS sunsets in 2015. Those sellers unable to reach the requirements may purchase credits from other utilities or, may purchase credits from the Department of Energy for 1.5 cents per kilowatt hour. Revenues from the sale of these credits will be used to fund the Public Benefits Fund.</b>
<b>Market Power</b>	<b>Authorizes FERC to require generators to submit a plan mitigating market power. If FERC determines the plan will be insufficient to mitigate market power, FERC may order cost-based rates for wholesale or retail sales, or ordering a utility to turn its transmission facilities over to an RTO.</b>	<b>Authorize FERC, upon petition by a state to require generators to submit a plan mitigating market power which FERC can accept or modify. Modification may include mandatory divestiture. FERC merger review over generation-only companies and holding companies clarified.</b>
<b>Reliability</b>	<b>FERC required to approve the formation of and oversee an organization that prescribes and enforces mandatory reliability standards</b>	<b>Same provision</b>
<b>Nitrogen Oxide Trading Authority</b>	<b>No provision</b>	<b>Clarify EPA authority to require an interstate trading system for nitrogen oxide pollutant reductions.</b>
<b>Universal Service</b>	<b>Allow states to impose a non-bypassable fee to fund such programs. "Sense of the Congress" that every consumer should have access to electricity and that FERC and the states should ensure competition does not result in disadvantages for rural, residential or low-income consumers.</b>	<b>Creates a \$3 billion "Public Benefits Fund" for low-income assistance, energy efficiency programs, consumer education and development of emerging technologies. The fund will be funded in part through the DOE's collection of 1.5 cents per kwt/hr from utilities that purchase credits to meet their renewable portfolio standard requirements. Require States to hold proceedings to consider a Federal</b>

		principle that all consumers in the State shall have reasonable access to competitive suppliers.
PUHCA	Holding companies exempted from PUHCA 18 months after enactment unless they provide retail service in two or more closed states. FERC and states granted access to utilities' books and records.	Repeals PUHCA 18 months after enactment; FERC and states granted access to utilities' books and records.
PURPA	Repeals section 210 of PURPA on date of enactment; Provides FERC backstop for recovery of stranded costs.	Repeals section 210 of PURPA on date of enactment.
TVA	TVA transmission subject to FERC jurisdiction; Power wheeled through TVA subject to open access requirements; Other utilities may sell inside TVA at both wholesale and retail beginning 1/01/2003; TVA subject to antitrust laws; TVA may sell <i>excess</i> power at wholesale outside the TVA fence beginning 1/01/2003 subject to FERC oversight; Sales at retail inside the fence to existing retail customers only; TVA must renegotiate existing full-requirements contracts within one year of enactment - FERC to resolve conflicts if parties cannot reach agreement; FERC shall issue rules for recovery of stranded costs - such costs not recoverable after 09/30/2007; FERC may order TVA to join an ISO; TVA may not purchase new generation unless customers agree to be liable for such purchase.	TVA transmission subject to FERC jurisdiction; Power wheeled through TVA subject to open access requirements; Other utilities may sell inside TVA at both wholesale and retail beginning 1/01/2003; TVA subject to antitrust laws; TVA may sell at wholesale outside the TVA fence beginning 1/01/2003; Sales at retail inside the fence to customers of its distributors if distributors purchase less than 50 % of their power from TVA; TVA must renegotiate existing full-requirements contracts within one year of enactment - FERC to resolve conflicts if parties cannot reach agreement. FERC shall issue rules for recovery of stranded costs - such costs shall no longer be recoverable after 11/01/2007; TVA authorized to join an ISO.
Bonneville Power Administration	BPA subject to FERC authority under the Federal Power Act for purposes of determining transmission rates; FERC may order BPA to join RTOs; Allow BPA to impose a surcharge for recovery of future otherwise nonrecoverable costs such as fish and wildlife costs.	BPA subject to FERC authority under the Federal Power Act for purposes of determining transmission rates; Authorize BPA to join RSOs; Allow BPA to impose a surcharge for recovery of future otherwise nonrecoverable costs such as fish and wildlife costs.
Power Marketing Administrations	PMAs must use the same accounting principles used by other public utilities; Authorizes PMAs to participate in FERC-approved RTOs; PMAs subject to antitrust laws.	The Western Area Power Administration (WAPA) and the Southwestern Power Administration (SWPA) are subject to FERC authority under the Federal Power Act for purposes of determining transmission rates; Authorize WAPA and SWPA to join RSOs; Allow WAPA and SWPA to impose a surcharge for recovery of

		future otherwise nonrecoverable costs such as fish and wildlife costs.
Retail Reciprocity	Provide States that have implemented retail competition with the authority to preclude an out-of-State utility with a retail monopoly from selling within the State unless that out-of-State utility permits customer choice.	Same provision
Consumer Protection	Prohibits illegal changes in retail customer selections or "slamming" and the billing of customers for unauthorized services or "cramming". Suppliers of power must provide to customers information regarding price, terms, conditions and type of generation source as well as generation emissions characteristics.	Same as Largent bill except DOE will use such information to create a publicly accessible "Electricity Shopper" database.
Net Metering	Suppliers must make net metering available to any retail electric consumer currently served by such supplier. The service is limited to those consumers whose generating capacity is 20 kilowatts or less and who produce such energy with solar, wind, geothermal or biomass resources.	Same provision
Aggregation	States must allow aggregation	States must allow aggregation
Indian Tribe Assistance	No Provision	\$20 million in grants authorized to create a tribal assistance program; Office of Indian Energy Policy and Programs created;
Southeast Alaska	No Provision	\$20 million authorized to assist the Southeast Alaskan area with electricity needs
Rural and Remote Communities	No Provision	\$140 million authorized over seven years for grants to assist rural and remote communities
Tax Credits	Provides an 8% investment tax credit for Combined Heat and Power systems placed in service from 2000 to 2002; Renewable resource tax credit extended; New credit for energy efficient homes; Reforestation credit instituted.	Same provision
Distributed Power	Establishes non-discriminatory standards connection of distributed power generation systems to distribution utilities.	Establishes non-discriminatory standards connection of distributed power generation systems to distribution utilities; Distributed Power assets assigned a 15 year recovery period for depreciation purposes.

Nuclear Power	No provision	Eliminate antitrust review by the Nuclear Regulatory Commission; Amend the Internal Revenue Code relating to deductions to a qualified nuclear decommissioning fund.
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